



## *City of Miami Springs, Florida*

The Miami Springs City Council held a **REGULAR MEETING** in the Council Chambers at City Hall on Monday, August 27, 2007, at 7:00 p.m.

### **1. Call to Order/Roll Call**

The following were present:

Mayor Billy Bain  
Vice Mayor Bob Best  
Councilman Paul C. Dotson  
Councilman Xavier Garcia

Absent: Councilman Rob Youngs

Also Present:

City Manager James R. Borgmann  
Assistant City Manager Ronald K. Gorland  
City Attorney Jan K. Seiden  
Police Captain Pete Baan  
Former Finance Director William Alonso  
City Planner Richard E. Ventura  
City Clerk Magalí Valls

**2. Invocation:** Councilman Dotson offered the invocation.

**Salute to the Flag:** The audience participated.

### **3. Awards & Presentations:**

#### **3A) Presentation of Certificate of Sincere Appreciation to Marty Frady for Twenty-Four Years of Service to the City of Miami Springs**

Marty Frady received an engraved Certificate of Sincere Appreciation plaque from Mayor Bain for twenty-four years of service to the City in the Recreation Department.

Marty Frady expressed his gratitude to the current Administration and City Council. He said that hopefully the gymnasium will be refurbished or rebuilt in order to provide a nice facility for the kids and adults.

On behalf of the Administration, City Manager Borgmann presented a clock with the City seal for Marty Frady's dedicated service to the Recreation Department from March 14, 1998 through September 7, 2007.

**3B) Certificate of Sincere Appreciation to Christina Shapiro for her Contributions as a Member of the Education Advisory Board**

Mayor Bain presented a Certificate of Sincere Appreciation to Christina Shapiro for her contributions as a member of the Education Advisory Board from 2001 until 2007.

Ms. Shapiro stated that it was a privilege serving on the Education Advisory Board.

**3C) Presentation of Certificates of Recognition to the Teachers and Members of the Mu Alpha Theta National Convention Held in Tampa from July 16-21, 2007**

Mayor Bain presented Certificates of Recognition to the Miami Springs Senior High School teachers and student members of the Mu Alpha Theta Math Team.

**4. Open Forum:**

**Request for Assistance**

Springview Elementary P.T.A. President Macbeth Araque of 1115 Ibis Avenue requested contributions from the City in order to be able to maintain programs that contribute to the success of the Springview students.

Springview Principal Mayte Dovale stated that she has been working with the P.T.A. since she became Principal and as a resident of Miami Springs it is a pleasure to serve the community. She hopes to make this the best year and a lifelong learning experience for the students. Principal Dovale said that any assistance from the City would be greatly appreciated.

Councilman Garcia asked Principal Dovale to provide the City Clerk with information about Dade Partners.

**Charter School**

Alexandra I. Mirabal of 580 La Villa Drive stated that the Charter School initiative has been in progress for almost three years with countless hours of volunteer time by the parents who formed the school.

Ms. Mirabal explained that a Charter School is a public school that is funded by the State and the only difference is that it is operated by the group that forms it. The parents want an educational option in addition to the existing public schools in the area. The Charter School was approved by the Miami-Dade County Public School Board but has not been opened due to lack of funding. The Miami Springs Baptist Church is the facility where the school will be housed and the Presbyterian Church is the second campus. Both facilities are in need of modifications and renovations and even though the parents have held fund raisers they still lack funds. This is the last year that they are allowed to defer the opening of the school and if the school is not open by 2008-2009 they will lose three years of work. She urged Council to seriously consider donating \$5,000 to the Charter School.

Councilman Garcia informed Ms. Mirabal that Council could not consider the request this evening. He asked the City Manager to place the item on the next agenda.

To answer Councilman Garcia's question, Ms. Mirabal clarified that there is no religious affiliation with the Charter School that will be leasing property from the Baptist and Presbyterian churches to operate a middle school with grades 6, 7 and 8.

**5. Approval of Council Minutes: (simultaneously approved)**

**5A) 08/06/2007 – Workshop Meeting**

Minutes of the August 6, 2007 Workshop Meeting were approved as written.

**Vice Mayor Best moved to approve the minutes and Councilman Garcia seconded the motion, which carried unanimously on roll call vote.**

**5B) 08/13/2007 – Regular Meeting**

Minutes of the August 13, 2007 Regular Meeting were approved as written.

**Vice Mayor Best moved to approve the minutes and Councilman Garcia seconded the motion, which carried unanimously on roll call vote.**

**6. Reports from Boards & Commissions:**

**6A) 08/23/2007 – Code Review Board – Cancellation Notice**

Cancellation Notice of the August 23, 2007 Code Review Board meeting was received for information without comment.

**6B) 08/28/2007 – Ecology Board – Cancellation Notice**

Cancellation Notice of the August 28, 2007 Ecology Board meeting was received for information without comment.

**6C) 08/16/2007 – Historic Preservation Board – Minutes**

Minutes of the August 16, 2007 Historic Preservation Board meeting were received for information without comment.

**6D) 08/14/2007 – Recreation Commission – Minutes**

Minutes of the August 14, 2007 Recreation Commission meeting were received for information without comment.

**6E) 08/22/2007 – Code Enforcement Board – Minutes**

Minutes of the August 22, 2007 Code Enforcement Board meeting were received for information without comment.

**7. Public Hearings:**

**7A) PUBLIC HEARING – Resolution – A Resolution of the City Council of the City of Miami Springs Authorizing the Transfer of the City’s Water and Sewer Public Utility Systems to Miami-Dade County; Determining that the Transfer of the Public Utility Systems and Facilities is in the Best Interests of the City and its Citizens; Adopting a “Statement of Position” that the Transfer is in the Public Interest and that Miami-Dade County has the Required Expertise and Financial Ability to Operate the Utility Systems Being Transferred by the City; Effective Date (Advertised: 08/15/2007)**

City Attorney Jan K. Seiden read the resolution by title.

Attorney Seiden stated that a revised resolution was placed on the dais. He explained that Section 1 now reads:

*“That the City Council of the City of Miami Springs hereby authorizes, subject to the execution of a mutually acceptable agreement of transfer between the City and the County, the transfer of the City’s water and sewer public utility systems to Miami-Dade County.”*

Attorney Seiden said that Council will always have the final say because an agreement will have to be reached with the County and he did not want the resolution to be misleading to the public that whatever Council decides at this meeting will be the end of the decision making process.

Attorney Seiden explained that in Section 3 language was added after "Statement of Position" stating that:

*"a copy of which is attached hereto as Exhibit "A".*

Mayor Bain opened the public hearing to those persons wishing to speak.

Fred Suhr of 1268 Partridge Avenue stated his opposition to the transfer of the water and sewer system to the County because of the cost involved and the possible reduction in service. He added that there is no guarantee that the County will not raise the water rates as soon as the system is transferred. He likes the idea of the City having control over the services and the residents having the ability to communicate with the people in charge.

There were no additional speakers and the Mayor closed the public hearing.

City Manager Borgmann presented a report to Council explaining that the transfer of the utility system is governed by Florida State Statutes, which requires the adoption of the resolution and the issuing of a Statement of Position by the City.

City Manager Borgmann referred to his memorandum dated August 27, 2007, regarding the statutory regulations regarding the sale of a water or sewer utility by a City. He said that the last paragraph states:

*"A statement shall be prepared that will incorporate all of the above responses, along with any Council or customer questions and answers that may be presented at the public hearing. We will rely on the findings of the County (as detailed in the Malcolm-Pirnie Report) as they pertain to the overall physical condition of the various elements of the water and sewer systems."* He stated that he was advised by the City Attorney that by attaching a copy of the transcript of the minutes to this document that it would in fact serve as the City's Statement of Position.

City Manager Borgmann stated that the various responses to each of the items that require an answer are attached to his memorandum, which he would review individually. He explained that Item one addresses the most recent available income and expense statement for the utility, which is Attachment # 1 for the financial records of Fiscal Year ended September 30, 2006.

City Manager Borgmann explained that Item two refers to the most recent available balance sheet for the utility and Attachment # 2 is the incorrect document because it is a Statement of Cash Flows and not truly a Balance Sheet listing all assets and liabilities. He asked former Finance Director William Alonso to provide a corrected Attachment # 2.

The City Manager stated that the net assets as of September 30, 2006 total \$1.8 million so the system is whole financially at the current time; however, the system could require future repairs and refurbishing.

Item three requires a statement of the existing rate base of the utility for regulatory purposes and the rate charts for both the City and the County are attached, according to Mr. Borgmann. He commented that the County charges by cubic feet as opposed to thousands of gallons of water.

City Manager Borgmann stated that Item four asks for the physical condition of the utility facilities being purchased, sold, or subject to a wastewater facility privatization contract, which is Attachment #4 that includes several pages from the County's Malcolm Pirnie study. He explained that there is no disagreement with the assessment of the City's system.

City Manager Borgmann explained that he had not addressed Item five because he is trying to determine the definition of the word "reasonableness" in this particular context. They are asking for the reasonableness of the purchase, sale, or wastewater facility privatization contract price and terms. He explained that nothing is being sold and the County's offer is to take over the system for \$19 million and they will charge a surcharge for twenty years over and above the basic retail rates.

City Attorney Seiden stated that in this case there is no sale per se since it will be a transfer and the County will assume the debt. All the terms are included in the documentation that have been discussed before and basically it is a transaction where the City turns over its facility assets and co-authorizes the County to utilize the easements as an owner, but there will be no particular exchange of funds.

Attorney Seiden explained that the logistics of how the County will pay off the City's bond is yet to be determined, which will be part of the agreement. He said that the purpose of the public hearing is to determine if it is appropriate and reasonable to consider the transfer and the rest of the agreement terms will come later in the process.

Vice Mayor Best said that obviously the \$8.6 million bond debt would go away. He asked what it would mean financially for the City.

Former Finance Director William Alonso stated that financially it would not affect the City because water and sewer is a stand alone enterprise fund that has nothing to do with the General Fund. The debt is eliminated, the City would be giving up the revenue source and the net effect would be minimal financially.

City Manager Borgmann explained that because it is a revenue bond that financially it would be a "wash".

Vice Mayor Best commented that the only positive advantage would be the County's ability to repair the system more efficiently than the City.

Mr. Alonso stated that the County obviously has the resources to repair the system, but to a city the size of Miami Springs it is a lot of money. He explained that the residents that will benefit are the ones in the lower rate categories. From the City's point of view, the problem will be the long-term repairs that are needed for the system and in the future the rates will become higher in order to pay for the repairs that the County will take over.

Mayor Bain stated that the County is taking over the system for \$19 million and subtracting the \$8 million debt, the total would equal the amount of funds that the City would spend to fix the water and sewer system. In his opinion, keeping the system would financially drain the City and the residents. In addition, there could be future mandates passed down from the State and the County because of the water shortage.

The Mayor said that adopting the resolution would allow the City to continue the process and pursue the feasibility of turning over the system. He added that the City could always work with the various County representatives in order to make the turnover financially acceptable.

Councilman Dotson stated that in previous discussions when the County officials were present, Finance Director Alonso had estimated that the City would have to take on another \$11MM in debt in the next couple of years in order to make repairs. A seventeen-year analysis indicated that the fees would have to be raised in order to cover a \$1MM deficit.

Former Finance Director Alonso clarified that by the year 2013, the deficit would total \$1.5MM.

Councilman Dotson explained that Miami Springs is a small town that takes pride in the ability to provide services, but it is becoming very difficult to operate the water and sewer system. He added that there could be future mandates as far as the water shortage that could place more restrictions on the system. Councilman Dotson stated that it could be better for the entire south Florida area to have one system in order to respond to the financial needs and future mandates. He felt that the City could be placed in a situation where it is impossible to respond.

Councilman Dotson had hoped that sleeving the sewer system would help, but the latest seventeen-year analysis revealed additional debt and higher fees. He stated that presumably the County, as a larger operator, would be able to make the repairs even though the fees will increase. Service is another issue and the residents will have to pay a fee for the County to respond when there is a problem and they will determine if it is their responsibility or property owner's.

City Manager Borgmann commented that the County service center for this area is fairly close and when a call is received they would dispatch an employee to their service center. The difference is that dispatching someone from the City's Public Works center is a five-minute trip as opposed to fifteen or twenty minutes from the County. The question is how fast the County will respond to a problem.

Vice Mayor Best stated that increasing the fees would not be enough to fix the problem and additional funds would be needed from other sources if the City were to keep the system. In addition, the Malcolm Pirnie report mentions that the City's water lines are two or four inches and the County would install eight-inch lines, which would be an improvement.

City Manager Borgmann explained that Item six addresses the impacts of the purchase, sale, or wastewater facility privatization contract on utility customers, both positive and negative. Attachment #6 is a memo that was distributed to Council on May 18, 2007, that recaps a meeting that was held to determine the particular issues as far as cost, financing, etc.

City Manager Borgmann stated that on a positive note, the \$23.4 million figure that the County was proposing dropped to the \$19 million range. He explained that the debt service would be in effect for twenty years and would be added to the bills of the Miami Springs system customers. The City would also need to add approximately \$112.50 per service address each year to make up the reimbursement that the system presently provides for the General Fund.

City Manager Borgmann explained that there is a potential for more restrictive limitations next fiscal year depending on what happens with the vote in January regarding the property tax exemption, which is very critical to consider. Every source of revenue would have to be identified in order to supplement revenues to the General Fund.

City Manager Borgmann stated that the net charge to the residents would decrease if the County took over the system and the amounts would not be significant to a vast majority of the City's residents. When the process first began, the \$19.7 million cost was not anticipated and it appeared that the savings to an average household would save \$40.00 to \$50.00 per month. Looking at today's users and the cost associated with the takeover of the system, the monthly savings decreased significantly. He referred to a chart showing the estimated savings ranging from \$3.00 to \$17.00 per month.

Councilman Dotson asked if information is available to show the breakdown of the \$310,000 administrative fee.

Mr. Alonso responded that the question about the administrative fee was raised at the last Workshop meeting and he forwarded the information to the City Manager. The fees are basically a percentage for the different departments that deal with the water and sewer departments and also a percentage of the Public Works Administrative budget is charged to the enterprise funds.

City Manager Borgmann offered to provide the breakdown of the administrative fees totaling \$310,000.

City Manager Borgmann said that a call out charge of \$135.00 is charged to residents if the problem is found to be on the customer's side of the service line. Call out time is yet to be verified; however, response time was measured in days in a non-scientific poll of some County customers. He added that the City would lose control of the rate structure.



To answer Vice Mayor Best's question, Mr. Borgmann stated that there is no question that the City would be facing another revenue bond at some point in the near future. He said that in a given year the City could have charges between \$200,000 to \$300,000 due to inflow and infiltration, which is cash that would come from the fund. The City would not be responsible for these charges once the system is turned over to the County.

City Manager Borgmann said that the City cannot continue to pay the excess fees for inflow and infiltration and repairing the system is an even bigger issue. As time goes on, new breaks in the lines occur.

City Manager Borgmann stated that certain one time costs the City would incur such as defeasance costs and the leave payouts for those employees that transfer to the County were not calculated as of May 18, 2007, but now it is known that the defeasance costs for the bond are taken care of. In addition, the County will institute annual cost of living increases and there is a 4.8% increase effective October 2007, although there will not be any wholesale increases.

On the negative side, Mr. Borgmann mentioned that there may be future significant costs such as any federal mandates and/or there may come a time when the system will require a huge amount of funds for repairs. If there is not a significant reserve for these costs the City may be forced to do a defeasance and try to get bond money to cover the costs. It is difficult to predict the future of the system, both from a repair/replacement perspective and future environmental standards that may have to be met.

City Manager Borgmann explained that the impact of the pending tax reform legislation from Tallahassee is unknown, short of saying that the General Fund will not be in a position to subsidize any operations unless the cash reserves are depleted.

City Manager Borgmann stated that Item 7 (a) addresses additional investment required and the ability and willingness of the purchaser or the private firm under a wastewater facility privatization contract to make that investment, whether the purchaser is the municipality or the entity purchasing the utility from the municipality. He included attachments #7 (a) and 7 (b) as additional follow up from the City Attorney in a draft memorandum to him dated May 14, 2007, and also a memorandum from Finance Director William Alonso dated June 7, 2007, giving additional updates. The question being asked is whether or not the County is viable enough to go into this business transaction and the answer is yes.

City Manager Borgmann continued his review with Item # 8 explaining the alternatives to the purchase, sale, or wastewater facility privatization contract, and the potential impact on utility customers if the purchase, sale, or wastewater facility privatization contract is not made. The alternatives to transferring the system to the County are as follows:

- i. The City's customers would have to foot the bill for any and all repairs, estimated by the County to be roughly \$36-38,000,000, for the needed replacement and repairs to both the water and sewer systems.

- ii. The City's customers would be responsible for payment of all future upgrades deemed necessary through edicts from various environmental protection agencies or from normal deterioration of pipes and controls.
- iii. City Staff would remain responsible for compliance with all regulations and the escalating costs of achieving compliance.
- iv. Due to the recent Tax Reform Act, the City may have to raise rates, in addition to increased County costs that are passed on to our customers, to assure that all costs of personnel that work on any aspect of the system are covered. The General Fund of the City will be hard pressed in the future to offset any losses in any enterprise fund.

City Manager Borgmann stated that the ninth point addresses the ability of the purchaser or the private firm under a wastewater facility privatization contract to maintain high-quality and cost-effective utility services, whether the purchaser is the municipality or the entity purchasing the utility. His response is that the County maintains and operates a system much larger than the City's and they have indicated the ability and desire to accept transfer of the system.

Item ten addresses all moneys paid by a private firm to a municipality pursuant to a wastewater facility privatization contract and this is not applicable since it is from a private firm, according to Mr. Borgmann.

City Manager Borgmann said that the final point is that the municipality shall prepare a statement showing that the purchase, sale, or wastewater facility privatization contract is in the public interest, including a summary of the purchaser's or private firm's experience in water, sewer, or wastewater reuse utility operation and a showing of financial ability to provide the service whether the purchaser is the municipality or the entity purchasing the utility from the municipality. He explained that the City will rely on the County's data to support this requirement.

Councilman Dotson commented that this is an extremely important decision for Council to make and he is not prepared to present his final opinions. He explained that there are additional issues he would like to review, including some of the discussion at the last meeting when the County representatives were present. He asked if this resolution would obligate Council to accept whatever agreement comes from the discussion.

City Manager Borgmann clarified that the City Attorney added the language "subject to the execution of a mutually acceptable agreement" and if that point is not reached then the resolution is null and void.

City Attorney Seiden commented that the County is at a standstill in the process of turning over the system until the City gives them a statement of intent and this is shown by adopting a resolution, subject to a proper agreement. If the County includes something in the agreement that the City feels is unfair or if their terms of repayment are not appropriate, then the City would not sign the

agreement and go forward. The only reason this is on the agenda tonight is because it is the next step in the process. The County would also hold a public hearing and calculate the final numbers as to how they would finance or pay off the bonds for the City.

**Councilman Garcia moved to adopt the resolution and Councilman Dotson seconded the motion for discussion.**

Councilman Garcia stated that Council discussed the possibility of informing the residents of the pros and cons in order to get their input. He knows that information was published in the River Cities Gazette and there has been discussion during the public meetings, but an insert in the utility bill explaining the facts would be a valuable tool. The transfer of the system is a decision that will affect every resident and Council should have their feedback.

Councilman Garcia suggested moving forward with the resolution in order to get more information from the County and circulating the facts to the residents, pro and con for transferring the system.

To answer Councilman Dotson's question, City Attorney Seiden said that if Council disagrees with any of the terms or conditions of the agreement then it would not be a problem for the City to tell the County that Council is not ready to make a decision. If Council does not disagree with the terms and conditions and changes their opinion about making the deal, they could be accused of exercising bad faith in the negotiations.

Councilman Dotson reiterated that he is personally not prepared to make the decision about the concept of turning over the system, and he is mindful of the fact that Councilman Youngs is absent and should have the opportunity to participate in this decision. He would like to table the resolution until the next meeting.

Mayor Bain stated that he agrees with Councilman Garcia that the residents should receive information and adopting the resolution is the next step in the process that will generate more information from the County that can be circulated to the residents. He feels that postponing adoption of the resolution would only delay the process.

Councilman Garcia asked if the County set a deadline for commitment of intent.

The City Attorney explained that the County informed the City that they would not move forward unless they receive a resolution. The timing is unfortunate because the County is in the middle of the budget process and everything will be delayed. The resolution is only philosophical at this point, it is not specific, and there are no numbers or bill of sale attached. He explained that it is simply a question of whether or not the City Council is prepared philosophically, subject to the correct terms and conditions, to make a deal.

Fred Suhr of 1168 Partridge Avenue asked what would be the benefit to the County if they take over the system.

City Manager Borgmann responded that the benefit would be to continue a regionalization of the water and sewer system because the problem is a much bigger issue. He explained that when the County has an issue with sewage disposal they are under consent decree from the federal government for certain requirements and it would allow more control over the elements instead of hoping that the cities take care of their individual systems.

City Manager Borgmann said that another positive is that it would add 4,000 customers to the County's customer base. He explained that the amount of the City's inflow and infiltration is a major problem for the financial health of the City, but it is nothing to the County because of the economy of scale.

Councilman Dotson stated that the concept is not complete in his mind and he has reservations because he does not want to begin negotiations and then decide it is not a good idea. He believes it is important to take whatever time is necessary because it is an extremely important decision and he would like to be able to support it with confidence through the negotiations.

Councilman Dotson explained that when he saw the item on the agenda he knew it was going to be difficult to evaluate it and it is a lot more than a philosophical question to him.

Vice Mayor Best commented that the approach is both philosophical and technical. Council received a lot of information, the pros and cons were discussed and to delay further discussion and negotiations at this point makes no sense.

Councilman Garcia asked Councilman Dotson if his concerns could be addressed this evening.

City Manager Borgmann offered to get more information for Councilman Dotson for the next meeting.

Councilman Dotson explained that the basic problem is the \$8 million debt for the bonds. According to Mr. Alonso, if the City keeps the system it would probably acquire another \$11 million debt within a year or two and that does not take into consideration the amount of funds required to renew the infrastructure for the water system, which could be another \$19 million. This means it could be a \$38 million debt which is a concern.

Councilman Dotson stated that he would vote for the resolution based on the best information that is available, but he would like more time to look into the possibility of sleeving because none was done last year and there is \$800,000 in the upcoming budget, which would take care of some of the leaks. He said that in two or three years 70% of the system could be sleeved and the system might be salvageable.

Councilman Dotson reiterated that he would like more time to think and ask questions in order to be confident that he is making the right decision.

**On roll call vote the motion carried 3-1 with Councilman Dotson casting the dissenting vote (Resolution No. 2007-3366).**

**7B) PUBLIC HEARING – CITY COUNCIL ACTING AS THE LOCAL PLANNING AGENCY (Advertised: 08/15/2007)**

City Planner Richard E. Ventura stated that there is a sign-in sheet on the table in the back of the Council Chambers. The State of Florida is requiring that any interested parties who would like more information about the process to list their name and mailing address, which will be forwarded to the State of Florida Department of Community Affairs (DCA).

City Planner Ventura informed Council that Michelle Glenn from Florida International University (FIU) Metropolitan Center was in a minor traffic accident on the way to the meeting, and will not be present. He prepared an overhead presentation, showing a depiction of what the three new paragraphs will be in the Future Land Use Element of the Comprehensive Plan.

City Planner Ventura explained that he would review the three paragraphs line by line. He stated that this is a public hearing and the floor would be open for anyone who has questions or would like to make comments on any of the items. Once this process is finished and after revisions are made, a vote is required in order to be able to submit the proposed amendments to DCA and comments should be received back from the State within sixty days after submittal.

City Attorney Jan K. Seiden clarified that initially Council received the balance of the plan amendments, pursuant to the Evaluation and Appraisal Report (EAR) process.

The City Planner explained that when Michelle Glenn first transmitted the package to him, she had neglected to include all the material on Airport Golf, N. W. 36<sup>th</sup> Street and the Abraham Tract. She then forwarded the materials so that they would be submitted as supplemental information to the previous package. There are also copies on the dais of the edits to the future land use map showing the delineations between the three districts.

City Attorney Seiden referred to the City of Miami Springs proposed text amendments for the 2005 Comprehensive Plan and the Table of Contents listing the submittal letter, 2005 EAR Based Amendments by Element, School Siting and Co-location, Intergovernmental Coordination Agreement, and Appendix. He explained that the only changes were the few pages and the map that the City Planner mentioned.

**Proposed Amendments to the Comprehensive Plan, Pursuant to the Requirements of Chapter 166.041 Florida Statutes, including:**

**7B1. The division of the existing Airport, Highway, Marine Business District (Airport Highway Marine Business District):**

**7B1. i. Airport Golf District**

City Planner Ventura stated that the area comprising the Airport Golf District is bounded by Curtiss Parkway, Fairway Drive and Deer Run. This district is intended to encourage a wide range of compatible and complimentary uses such as to wit:

- 1) Office and Commercial Business
- 2) Restaurants
- 3) Hotels
- 4) Retail service operations
- 5) Residential development in accordance with the City Charter
- 6) Mixed-use projects
- 7) Other enterprises not inconsistent with the intent of the district that may be provided in the effectuating district boundary regulations.

Development within this district shall be permitted a floor area ratio (FAR) of 1.0 by right.

**7B1. ii. 36<sup>th</sup> Street District**

City Planner Ventura stated that the area comprising the 36<sup>th</sup> Street District extends from Curtiss Parkway on the west to the point where the Miami Canal intersects with N. W. 36<sup>th</sup> Street on the east. This district is intended to encourage large scale developments of a wide range of compatible and complimentary uses such as to wit:

- 1) Office and Commercial Business
- 2) Restaurants
- 3) Hotels
- 4) Residential development in accordance with the City Charter
- 5) Mixed-use projects
- 6) Retail service operations
- 7) Other enterprises not inconsistent with the intent of the district that may be provided in the effectuating district boundary regulations.

Development within this district shall be permitted to utilize a floating floor area ration (FAR) of between 1.0 and 3.0; however, the determination of the approved and authorized FAR for any proposed project shall remain with the City Council and be directly dependent upon the meeting of certain criteria or incentive provisions to be set forth in the district boundary regulations approved and established for this district.

**7B1.   iii.     Abraham Tract District**

City Planner Ventura stated that the area comprising this district is located south of N. W. 36<sup>th</sup> Street and was previously annexed by the City of Miami Springs with the approval of the property owner. This district is intended to encourage large scale development of a wide range of compatible and complimentary uses, along with appropriately approved industrial and adult uses such as to wit:

- 1)     Office and Commercial Business
- 2)     Restaurants
- 3)     Hotels
- 4)     Retail service operations
- 5)     Residential development in accordance with the City Charter
- 6)     Mixed-use projects
- 7)     Adult related business activity or use
- 8)     Industrial enterprises which are in conformity with the restrictions and limitations for such businesses to be provided in the district boundary regulations.
- 9)     Other enterprises not inconsistent with the intent of this district that may be provided in the effectuating district boundary regulations.

Developments within this district shall be permitted to utilize a floating floor area ratio (FAR) of between 1.0 and 3.0; however, the determination of the approved and authorized FAR for any proposed project shall remain with the City Council and be directly dependent upon the meeting of certain criteria or incentive provisions to be set forth in the district boundary regulations approved and established for this district.

**7B2)   The inclusion of additional allowed uses within each of the three new districts.**

**7B3)   An increase in the maximum allowable Floor Area Ratio (FAR) in the Airport Golf and Abraham Tract Districts.**

**7B4)   Other proposed amendments as recommended by the Florida Department of Community Affairs (DCA) during the State-mandated Evaluation and Appraisal Report (EAR) process.**

City Planner Ventura referred to the map delineating the Airport Golf, 36<sup>th</sup> Street and Abraham Tract districts.

Mayor Bain opened the public hearing to those persons wishing to speak.

Nery Owens of 332 Payne Drive said that she has an issue with item # 7 related to adult business activity or use. She asked what would be the northern boundary of this tract and whether or not it includes the Aladdin Hotel. She added that the City should not allow any adult related business activity in any district.

Councilman Garcia informed Ms. Owens that Council shares the same opinion in regard to adult related business activity, but unfortunately the state law is written so that adult related business activity must be allowed somewhere. He explained that the Abraham Tract is the furthest away from residential areas, which is the southeast corner of the City.

City Manager Borgmann responded that the Abraham Tract does not incorporate the Aladdin Hotel.

Ms. Owens suggested that Council should limit the FAR for adult related businesses to 1.0.

City Attorney Seiden stated that the City was approached by an organization that was very adamant about making an adult use at the location of the Firehouse Barbeque Restaurant and there were a number of discussions with their attorneys who were commonly known as the "First Amendment" lawyers. The City was provided with legal memoranda from local cases in Miami-Dade County that said zoning cannot prohibit and must provide for a certain percentage of these types of uses.

Attorney Seiden reiterated that the Abraham Tract is the least offensive area of the City and far away from residential uses. In regard to limiting the FAR for this use, this discussion is premature at this time, because this deals with district boundary regulations that will be effectuated after the approval of the plan amendments. He felt that FAR in regard to a particular use is probably prohibited because it is discriminatory in nature.

Bob Schwinger of 630 Cardinal Street suggested that a floating FAR between 1.0 and 3.0 should be allowed in the Airport Golf District in order to best utilize the land. He referred to the former project proposed by Henry Pino and said that a similar project, conforming to the height and parking limitations, would be a viable project in order to improve the area.

Mr. Schwinger recommended amending the entire Comprehensive Land Use Plan in order to address the FAR in the Central Business District. He added that the 36<sup>th</sup> Street District does not specify a northern boundary.

City Manager Borgmann referred to the map. He said that the boundary is basically where the barricades are placed, plus or minus a few feet because some lots are split. He noted that there is also a dip to the south of Stafford Park and the boundary extends back to Oakwood along Forrest, Lee and Sheridan Drives.

Mr. Schwinger said that the purpose of setting the boundary regulations and expanding the development of the commercial district is to increase the tax base. He expressed his ideas for encouraging commercial development along N. W. 36<sup>th</sup> Street.

Discussion ensued regarding the land owned by the County Aviation Department that is not available to the City for development.

Mr. Schwinger mentioned that affordable housing districts should be addressed in the



Comprehensive Land Use Plan because the federal government could tell the City where the housing should be located.

Councilman Dotson commented that Mr. Schwinger's suggestions would be an obvious move in order to increase development but there are residents who have lived in that area for a long time who have expressed their desire to keep the existing boundary. He said that he has been told about prospects for development of N.W. 36<sup>th</sup> Street with the current boundaries and that Council should consider expanding the commercial tax base, keeping in mind that Miami Springs is a residential city.

Mr. Schwinger was of the opinion that the City should hire a professional to assist the City Planner in amending the Comprehensive Land Use Plan in order to promote development.

Councilman Garcia stated that he would not want to eliminate the residences in the area mentioned by Mr. Schwinger from Oakwood down to the dividing line. He asked if it is a matter of eliminating residences or extending the district.

Vice Mayor Best commented that the map indicates there are only three properties involved. The question becomes what would that do to propel commercial interests in the area.

Councilman Garcia said that it might be a viable option to extend the boundary to Oakwood because the homes would remain residential. He explained that there are currently some residences in the commercial district, they are not obligated to sell their homes, but someone could offer a good price for their properties for commercial development and the district boundary regulations would regulate the distance between Oakwood Drive.

To answer Councilman Garcia's question, City Attorney Seiden stated that if Council were to expand the district closer to the residences north of Oakwood they should be more specific about limiting the FAR.

City Manager Borgmann added that there could be "step down" zoning that limits the height within 150 feet of a residence.

Councilman Garcia stated that sources of revenue are limited, especially with the new tax reform, and Council should consider maximizing commercial space. He clarified that he is not for eliminating residences in that area, but the property owners might have an opportunity to sell their properties if Council is willing to extend the commercial base.

Mayor Bain said that he is not prepared to change the boundary line for the 36<sup>th</sup> Street District, which would affect 53 residential homes. He explained that it would be a new proposal that would require additional public hearings.

City Attorney Seiden stated that this is a public hearing on the item that is on the agenda. Council is not limited in the future to make additional plan amendments, but no action can be taken at this time to expand the district.

Mr. Schwinger said that it might be appropriate to bring in resident Polly Thompson who is a well respected appraiser who will be able to explain the appropriate uses for the district that are necessary for a viable community.

There were no additional speakers and the Mayor closed the public hearing.

City Planner Ventura stated that he would contact Michele Glenn at the FIU Metropolitan Center to inform her of the results of the meeting and any additional comments would be forwarded to Council in memorandum form. He felt that once DCA receives the amendment package and acknowledges that it is complete, it would be sixty days before receiving their comments.

City Attorney Seiden said that after the review by DCA there would be another resolution and public hearing.

**Councilman Garcia moved to approve the transmission of the amendment documents for additional review by the Department of Community Affairs. Vice Mayor Best seconded the motion.**

Councilman Dotson referred to the Future Land Use Element on page five of the proposed amendments. He said that Objective 1.2: Redevelopment and Renewal (item 4) would encompass Mr. Schwinger's North Royal Poinciana project.

Councilman Dotson was of the opinion that the apartment conversion to condominiums in the City would be considered affordable housing. He added that the apartments along South Royal Poinciana from East Drive south to the Aladdin Hotel were traditionally affordable units and there should not be a problem with mandates from the federal government.

City Attorney Seiden stated that the EAR amendments had been preliminarily reviewed and approved by DCA. He felt that it would be very unlikely for the federal government to force a local community to propose buildings that are in opposition to their zoning, their charter, or their land use plan.

Vice Mayor Best added that during the process over the last several months Council was very careful to insulate the language in the EAR amendments with the assistance of the City Attorney and the FIU consultants. He agreed with Councilman Dotson that there are plenty of areas that would be considered affordable housing.

**On roll call vote, the motion was unanimously carried.**

**7C) PUBLIC HEARING – Ordinance – Second Reading – An Ordinance of the City Council of the City of Miami Springs Amending the Title to Code of Ordinance Chapter 113, Occupational License Taxes; Amending the References to “License” and “Occupational Licenses” in Code Sections 113-01, License Required, 113-02, Payment Required, 113-03, Issuance of License, 113-04, Schedule of Fees, 113-05, Display of License, 113-06, Insurance Agency or Agent, 113-07, Selling or Disposing of Merchandise, 113-08, Application for License, 113-09, Compliance, 113-10, Revocation or Suspension of License; Appeals, 113-12, Duties of Officers, Employees, etc. of Firms, Corporation or Associations, 113-13, Psychologist License; Amending Code of Ordinance Section 113-04, Schedule of Fees, to Provide a Five (5%) Percent Increase in the Cost of All City Business Taxes; Repealing all Ordinances or Parts of Ordinances in Conflict; Effective Date (First Reading: 08/13/2007 – Advertised: 08/15/2007)**

City Attorney Jan K. Seiden read the ordinance by title.

Attorney Seiden stated that the only change that was made since the first reading was a language clarification that was requested by Councilman Garcia under Bail Bondsman charging \$52.50 for each bondsman in the office.

Mayor Bain opened the public hearing, there were no speakers and the public hearing was closed.

**Councilman Garcia moved to adopt the ordinance and Vice Mayor Best seconded the motion, which carried 4-0 on roll call vote (Ordinance No. 958-2007).**

**7D) PUBLIC HEARING – Second Reading – Ordinance – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 150-016, Off-Street Parking Facilities; Paving and Drainage; Lighting; Landscaping; And Minimum Number of Off-Street Parking Spaces; Off-Street Parking Requirements for Single Family Residential and Duplex Zoning Districts; by Clarifying and Expanding the Provisions Relating to Private Property Driveways and Driveway Approaches Contained in Subsection (G) (8) of the Ordinance; Providing for Concurrent Jurisdiction and Inspection Responsibilities for Driveway Approaches; Repealing all Ordinances or Parts of Ordinances in Conflict; Effective Date (First Reading: 08/13/2007 – Advertised: 08/15/2007)**

City Attorney Jan K. Seiden read the ordinance by title.

Attorney Seiden stated that subsection (b) was revised to clarify where the flare out of the driveway begins and now reads:

*“The aforesaid driveway approaches located in and over City swale or right-of-way areas may, in addition to the width permitted, begin to flare and taper out from the swale or right-of-way area that adjoins the sidewalk or private property line for an additional two and one-half feet on each side of the driveway approach as it adjoins the adjacent street.”*

Attorney Seiden clarified that the flare out begins at the point of the sidewalk or right-of-way after the property line, tapering to 2-1/2 feet. This allows a clear definition for the Code Compliance, Building and Public Works Department.

Mayor Bain opened the public hearing, there were no speakers and the public hearing was closed.

**Vice Mayor Best moved to adopt the ordinance and Councilman Garcia seconded the motion.**

Councilman Dotson commented that a 12-foot driveway would have a 17-foot approach and a 16-foot driveway would have a 21-foot approach at the street and the City Attorney agreed.

**The motion carried 4-0 on roll call vote (Ordinance No. 959-2007).**

**7E) PUBLIC HEARING –Second Reading – Ordinance – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 153-20, Criteria for Designation of Individual Sites, to Create and Establish a New “Special Category of Historical Designation” Without Future Restrictions or Limitations; Repealing all Ordinances or Parts of Ordinances in Conflict; Effective Date (First Reading: 08/13/2007 – Advertised: 08/15/2007)**

City Attorney Jan K. Seiden read the ordinance by title.

Attorney Seiden stated that per Councilman Youngs’ suggestion he added (C) 6 that reads as follows:

*“Any ‘Special Category Designation’ authorized and approved pursuant to the provisions hereof, shall be null and void and of no further force or effect if any of the Ordinance provisions related to ‘Special Category Designations’ provided herein are declared to be invalid, inappropriate, improper, or otherwise contrary to law by any court of law, regulatory authority or organization, or other governmental organization, agency, authority, department or board which exercises jurisdictional control over the City’s Historic Preservation Board.”*

Attorney Seiden stated that if a determination is made that the ordinance is invalid then everything is void from the beginning and any property permitted or authorized pursuant to it would also be invalid.

Mayor Bain opened the public hearing, there were no speakers and the public hearing was closed.

**Councilman Garcia moved to adopt the ordinance and Vice Mayor Best seconded the motion, which carried 4-0 on roll call vote (Ordinance No. 960-2007).**

**8. Consent Agenda:**

**8A) Recommendation that Council Approve an Expenditure of \$4,985.00 to DTC Communications, Inc. and \$3,900.00 to Adaptive Digital Systems, Inc., the Sole Source Suppliers, as Provided in Section 31.11 (E) (6) (c) of the City Code, to be Paid out of the Law Enforcement Trust Fund**

City Manager Borgmann read the titles of the consent agenda items.

There was no discussion regarding this item.

**Councilman Dotson moved to approve and Vice Mayor Best seconded the motion, which carried 4-0 on roll call vote.**

**8B) Recommendation that Council Waive the Competitive Bid Process and Approve an Expenditure of \$18,360.00 to C. R. DeLongchamp, as Provided in Section 31.11 (E) (6) (g) of the City Code, Pursuant to the Contract Renewal Option for an Additional Twelve-month Period, to be Paid from the Law Enforcement Trust Fund**

There was no discussion regarding this item.

**Councilman Dotson moved to approve and Vice Mayor Best seconded the motion, which carried 4-0 on roll call vote.**

**9. Old Business:**

**9A) Appointment to the Ecology Board by Mayor Bain to Fill an Unexpired Term Ending on April 30, 2009 (Joe Podgor's seat)**

Mayor Bain **deferred** his appointment.

**9B) Appointment to the Golf and Country Club Advisory Board by Mayor Bain for an Unexpired Term Ending on July 31, 2007 (Noel Pereda's seat)**

Mayor Bain **deferred** his appointment.

**9C) Appointment to the Civil Service Board by Councilman Garcia (Group III) for an Unexpired Term Ending on June 30, 2009 (Roslyn Buckner's seat)**

Councilman Garcia (Group III) **deferred** his appointment.

**9D) Appointment to the Ecology Board by Councilman Youngs (Group IV) for a Full 3-year Term Ending on April 30, 2010 (Donna Dawson's seat)**

Councilman Youngs was absent and the appointment was **tabled**.

**9E) Appointment to the Civil Service Board by Councilman Youngs (Group IV) for a Full 3-year Term Ending on June 30, 2010 (Félix D. Pérez' seat)**

Councilman Youngs was absent and the appointment was **tabled**.

**9F) Appointment to the Code Review Board by Councilman Youngs (Group IV) for a Full 3-year Term Ending on April 30, 2010 (Jana Armstrong's seat)**

Councilman Youngs was absent and the appointment was **tabled**.

**9G) Appointment to the Recreation Commission by Councilman Youngs (Group IV) for a Full 3-year Term Ending on April 30, 2010 (Robert Williams' seat)**

Councilman Youngs was absent and the appointment was **tabled**.

**9H) Appointment to the Education Advisory Board by Vice Mayor Best (Group I) for a 2-year Term Ending on May 31, 2009 (Dr. Karen Williams was unable to accept appointment)**

Vice Mayor Best (Group I) **deferred** his appointment.

**9I) Appointment to the Golf and Country Club Advisory Board by Vice Mayor Best (Group I) for a Full 2-Year Term Ending on July 31, 2009 (Mark Safreed's seat)**

Vice Mayor Best (Group I) **re-appointed Mark Safreed** to the Golf and Country Club Advisory Board.

**9J) Appointment to the Golf and Country Club Advisory Board by Councilman Garcia (Group III) for a Full 2-Year Term Ending on July 31, 2009 (Phyllis Causey's seat)**

Councilman Garcia (Group III) re-appointed Phyllis Causey to the Golf and Country Club Advisory Board.

**9K) Appointment to the Golf and Country Club Advisory Board by Councilman Youngs (Group IV) for a Full 2-Year Term Ending on July 31, 2009 (Ken Amendola's seat)**

Councilman Youngs was absent and the appointment was **tabled**.

**9L) Request from the Miami Springs General Employees Retirement Pension Board to Change the Calculation of "Final Average Salary (FAS)" from the Current Five (5) Years to Three (3) Years (Tabled: 08/13/2007)**

City Manager Borgmann stated that this item was previously presented and Council asked to reconsider the request after completing the budget workshops. The General Employees Retirement Pension Board had requested to change the calculation of "Final Average Salary (FAS)" from the current five years to three years.

City Manager Borgmann explained that the actuarial study indicated that the cost to the City would be \$77,453 under the three year FAS and \$37,742 under the four year FAS. Staff's recommendation is a change to the four year FAS. He said that former Finance Director Alonso indicated at the last workshop meeting that this change would not have any real financial impact.

Councilman Dotson stated that the City is facing the mandated roll back in the millage rate, as well as other difficulties that may be on the horizon next year and it would not be appropriate to expand the benefits at this time. He would like to see some examples of the difference that this benefit would mean in addition to the dollar amount that could balloon in the future. He was of the opinion that under the present circumstances, the decision to award merit increases was very generous on Council's part.

Councilman Garcia said that due to the current tax reform there are numerous items to consider and in order to retain employees there are very few benefits that can be awarded. He was of the opinion that the recommendation to increase the FAS would be a tool that could help retain employees and for this reason he is in favor of changing the FAS to four years.

Vice Mayor Best agreed with the recommendation for changing the calculation of FAS from the current five to four years, which would represent an increase of 1.15%.

To answer the Mayor's question, City Manager Borgmann stated that the future impact would be determined by how well the stock market performs.

**Councilman Garcia moved to approve the recommendation to change to the four year FAS. Vice Mayor Best seconded the motion, which carried 3-1 on roll call vote with Councilman Dotson casting the dissenting vote.**

*(Agenda Items 9N and 9 M were approved with one motion)*

**9M) Recommendation to Authorize a Grant Application to the State of Florida Department of Environmental Protections's Florida Recreation Development Assistance Program to Continue the Development of a Linear Park Along the Miami River/Canal Street (Tabled: 08/13/2007)**

City Manager Borgmann stated that the next agenda items 9M, 9N and 9O are related to the linear park applications for grants.

City Planner Richard E. Ventura said that Council requested cost estimates for the project through to completion. His memorandum includes cost estimates provided by Bermello-Ajamil dated August 28, 2006 for a grand total of \$1,633,190.40. In checking with Robert Gustafson of Bermello-Ajamil, he indicated that the prices should hold given the current state of the construction industry.

City Planner Ventura said that his feeling is that lining up grants from the Florida Recreation Development Assistance Program (FRDAP) and completing the project in segments would increase the cost of the project from \$2 million to \$3 million.

Councilman Dotson inquired about the time frame for completing the process.

City Planner Ventura recommended getting assistance from a grant writer as soon as possible in order to be able to apply for a series of grants to the project, which would reduce the cost. He estimated the time frame to be at least three years.

To answer Councilman Dotson's question, the City Planner said that the City's cost would depend on the individual grant formula and right now the application is for a 50/50 matching grant for a total award of \$400,000.

City Manager Borgmann added that the City already has a grant for \$117,000, which means there is a potential for \$500,000. FRDAP normally awards grants if they know the City has an ongoing project that is progressing in phases. He said that the linear park project is an established program and a portion between the two bridges has been completed that was partially funded by FRDAP.



City Manager Borgmann explained that the project is progressing block by block, but there might be some infrastructure issues that would be better to address at one time like the electric supply. He added that there may be some additional opportunities for the sea wall in order to obtain a better price.

To answer the Mayor's question, City Manager Borgmann explained that the design work is complete and Council approved the request for the architect to create the construction plans.

Councilman Dotson mentioned that if there are no available grants that it could put stress on the Local Option Gas Tax and the People's Transportation Trust funds.

City Manager Borgmann agreed with Councilman Dotson that it could affect the Citizens' Independent Transportation Trust (CITT) funds, but not Local Option Gas tax funds. He said that street sweeping, road rock and asphalt resurfacing expenses were paid by CITT, which was less than \$200,000 and the City receives more than \$400,000 per year.

To answer Mayor Bain's question, City Planner Ventura clarified that \$117,000 must be spent before April 2008.

Mayor Bain said that he would like to utilize the available \$117,000 before the deadline so that the City can apply for future grants. He is not sure if \$400,000 is enough to allow the project to progress because it is going to cost at least \$1 million to complete the first phase.

To answer the Mayor's question, City Planner Ventura confirmed that there is a three-year time limit to spend the grant funds after receiving the official award letter from FRDAP. He reiterated that a grant writer could help to apply different grants to the project in order to complete it as soon as possible and keep the overall costs down.

Councilman Garcia agreed with Mayor Bain that not enough funds are available in order to be able to see the progress. He supports the recommendation for obtaining a grant writer who could actively pursue grants in order to be able to complete the project as soon as possible. He added that the area has a potential for commercial vitality, especially because it is the corridor at the entrance to the City from Hialeah.

Vice Mayor Best stated that he also agreed with the recommendation for hiring a grant writer that could focus on this project. He would not want the City to lose the available grant funds.

City Attorney Seiden recalled that many extensions from FRDAP were granted for the bike path project due to circumstances with eminent domain proceedings. He said that as long as progress was being made toward the goal that extensions for spending the funds were approved.

Councilman Garcia emphasized the importance of maintaining communication with the grant sources.

Mayor Bain reiterated his concern is that not enough funds are available to make a physical difference in the project.

City Manager Borgmann stated that \$500,000 would be sufficient to complete a lot of work. The first phase will extend from the incoming bridge down to the Chinese Restaurant. He said that hopefully the City would be able to obtain future grants by showing that progress is being made and it is a viable project. He reminded Council that it is a recreation grant for an open space park environment.

To answer the Mayor's question, City Planner Ventura said that he would prefer Council to make a decision because the next meeting is September 10<sup>th</sup> and the application must be postmarked by September 14<sup>th</sup>.

City Planner Ventura suggested that it would be helpful for the Finance Department to provide a statement showing the available CITT funds.

City Attorney Seiden recommended that Council approve the resolution at the same time, which is the next agenda item.

**Councilman Dotson moved to approve and Vice Mayor Best seconded the motion, which carried 4-0 on roll call vote.**

**9N) Resolution – A Resolution of the City Council of the City of Miami Springs Authorizing the City's Application for a Matching Grant from the State of Florida Department of Environmental Protection's Florida Recreation Development Assistance Program for the Second Phase of the City's Development of the Linear Park Along the Miami River Canal and Canal Street in the City's Downtown Area; Authorizing the Amendment of the City's Capital Improvement Plan and Budget to Provide the Required Grant Match Funding; Effective Date (Tabled: 08/13/2007)**

City Attorney Jan K. Seiden read the resolution by title.

To answer the Mayor's question, Attorney Seiden stated that the next agenda item (9O) is a resolution authorizing the amendment of the City's Capital Improvement Plan and budget to provide the required grant matching funds, which is one of the grant requirements.

**Councilman Dotson moved to approve and Vice Mayor Best seconded the motion, which carried 4-0 on roll call vote (Resolution No. 2007-3367).**

**9O) Resolution – A Resolution of the City Council of the City of Miami Springs Authorizing and Approving the Amendment of the City’s Five-Year Budgetary Capital Improvement Plan to Include the Development of a Linear Park Along the Miami River Canal and Canal Street in the City Downtown Area; Effective Date**

City Attorney Jan K. Seiden read the resolution by title.

Attorney Seiden stated that Exhibit “A” under General Government provides \$200,000 for the Linear Park.

**Vice Mayor Best moved to adopt the resolution and Councilman Garcia seconded the motion, which carried 4-0 on roll call vote (Resolution No. 2007-3368).**

**9P) Approval of Contract with R. J. Heisenbottle Architects for the Completion of Construction Drawings for the Curtiss Mansion**

City Attorney Seiden stated that the request for approval of the contract had been considered numerous times and the last stumbling block was the limitation placed on the City by the County and the promise that no City funds would be spent.

Attorney Seiden explained that the limitation for 17% of the soft costs prohibited approval of the contract, Councilman Garcia attempted to obtain \$50,000 from the state, which was vetoed by the Governor and then Joe Derry made the funds available to Curtiss Mansion, Inc. (CMI). CMI has received the funds and forwarded the funds to Heisenbottle Architect.

City Attorney Seiden stated that the language and numbers in Exhibit “A” of the contract had changed and it was reviewed by both himself and Finance Director Alonso. He noted that a sentence was added that Heisenbottle acknowledges that he has already been paid by CMI for the design development phase and that the combination of the CMI contract and this contract will complete the intended scope for the agreement.

City Attorney Seiden reiterated that the contract now reflects that the City will not be providing any funding. There is a scrivener’s error and the date in the body of the letter will be changed to August 17, 2007.

**Councilman Garcia moved to approve and Vice Mayor Best seconded the motion.**

Councilman Dotson inquired if \$2 million is now available, and the City Manager explained that there are two separate grants, one for \$1 million and another for \$1 million less 17%. He clarified that the grants are reimbursement situations and the funds are released as the work progresses.

**On roll call vote the motion was unanimously carried.**

## **9Q) Continued Discussion and Recommendations Regarding the Recreation Department Facilities**

City Manager Borgmann stated that per Council's request to try to determine the best way to provide an improved community center, he researched the possible use of steel panels or a steel building.

City Manager Borgmann said that in speaking with one vendor, he found out that a brand new building of 24,000 square feet, which would house two full-size basketball courts or four multi-sport quadrants, plus office space, would cost approximately \$60.00 to \$75.00 per square foot. This would produce a total price of between \$1,452,000 and \$1,815,000, which is well within the current available funding.

A second contractor said that the cost to build the structure would range from \$20.00 to \$40.00 per square foot, but there would be a doubling factor for a totally built out facility, which means \$40.00 to \$80.00, according to Mr. Borgmann. He said that the job would have to go out for bid.

City Manager Borgmann requested Council approval, considering the fact that funds are available and it appears that they would provide a brand new facility that could be built in the parking lot. The construction area could be fenced in order to maintain the regular programming until the new facility is complete.

City Manager Borgmann recommended moving forward on a new building if the construction can be done for \$2 million.

To answer Councilman Dotson's question, Mr. Borgmann clarified that the new structure would require a new foundation and he does not have that pricing. Soil borings will need to be made to determine such conditions, which are not included in the price.

Councilman Dotson suggested that an opinion could be obtained from Mr. Pistorino. He has been told that the County product approval is required.

City Manager Borgmann stated that the vendor told him that they have the County product approval.

Councilman Dotson stated that he would support getting more information. He said that steel buildings are apparently new and state of the art in some respects.

Vice Mayor Best asked if the company would handle all the architectural aspects of the project.

City Manager Borgmann responded that the company could construct the facility if the City provides the design and construction drawings or they could do a design/build.

Mayor Bain stated that a steel building that is constructed to meet the state and county codes for wind load would mean that it could be used as a hurricane structure. He explained that was the intent when the City received \$100,000 from State Representative Lincoln Diaz-Balart. He would like to put out a bid for a design/build project for a 24,200 square foot gymnasium/community center.

Councilman Garcia said that he did some research on steel structures because he had some questions related to acoustics and the activity directors that he spoke with said that they are no different than regular buildings because of the insulation.

City Manager Borgmann stated that most of the steel gyms he visited have acoustical type treatments on the interior walls and ceilings to buffer the sound.

Councilman Garcia said that he would like to put out a bid for a design/build project, especially if the cost estimate is approximately \$2 million. He stated that building a new facility for the same price as refurbishing the old one makes common sense.

City Manager Borgmann explained that he was always concerned about not disrupting the current recreation programming and it is unknown how long the existing gym would be closed for refurbishing.

Mayor Bain suggested putting out a bid.

City Manager Borgmann explained that companies would be asked for cost estimates for a design build facility and the proposals would be presented to Council. He said that Council would review the price ranges and select those companies they would like to be present at a meeting to answer questions.

The Mayor said that he would like the timeline for the bid to be 30-days.

Attorney Seiden cautioned the Mayor that the companies should be given enough time to respond.

City Manager Borgmann stated that he has a list of companies. He said that he was amazed at the cost estimate, which includes electric, plumbing, air conditioning, interior and exterior finishes, doors, windows, walls, etc.

Council **directed** the Administration to go out for a Request for Proposals for design build of a new gymnasium/community center with the stipulation that prospective bidders will have a 30-day time limit to submit their proposals.

**9R) Further Discussion Regarding Psychiatric Care at Fair Havens (Requested by Councilman Dotson)**

City Manager Borgmann stated that Councilman Dotson requested this item. He said that the agenda packet includes excerpts of the June 25, 2007 meeting when Council approved the use to allow a psychiatric office at Fair Havens.

Councilman Dotson said that one complaint he received was that allowing a psychiatrist to practice at Fair Havens would be the same as a psychiatrist practicing in a residential area. He explained that the neighbors are afraid that patients could wander into the neighborhood and he promised to bring the item back to Council for further discussion and consideration.

Vice Mayor Best asked if there had ever been any incidents of this nature. Councilman Dotson responded that there have not been any incidents.

City Manager Borgmann felt that the concern is directed more toward patients from the outside. He explained that Council addressed this concern by approving the use, subject to the condition that 51% of the patients are Fair Havens' residents and only one doctor is allowed per zoning category.

Councilman Garcia asked how the City could control where the patients are from.

City Attorney Seiden stated that the doctor's books could be audited, the same as a restaurant that has a license to serve alcoholic beverages.

City Manager Borgmann responded that the doctor knows he was allowed to conduct business with certain conditions and he could be asked to produce a list of clients.

Councilman Dotson suggested that a natural point of review would be when the business license is renewed.

City Attorney Seiden stated that if the business becomes a nuisance in the community and such conduct goes uncorrected, there are Code provisions that could cause the business license to be revoked. The process has to take its course.

City Attorney Seiden said that if Councilman Dotson wanted to inquire, the City Planner could send a letter asking the doctor what is the nature of his clientele outside of Fair Havens and whether or not they are institutional patients that are delivered in buses.

Councilman Dotson agreed with Attorney Seiden's suggestion to send a letter to the doctor.

Councilman Garcia commented that he was against the request to approve the use when it was presented to Council. He asked if there had been any progress in regard to additional parking for Fair Havens.

Assistant City Manager Gorland stated that he spoke with the Director at Fair Havens who advised him that it would be difficult to obtain funds to repave the existing parking lots and there are no funds budgeted for a new parking lot.

Councilman Garcia said there is an area toward Morningside Drive where cars park in an open lot. He would like to determine if this is legal and begin to enforce illegal parking. He added that there is also an issue with littering the green space.

City Manager Borgmann stated that Fair Havens owns the lot in question, but it is inappropriate to park there because they have another area south of the building.

Councilman Garcia felt that people should park their vehicles in areas that are not a nuisance to the residents.

Council **directed** the Administration to assure the doctor complies with the conditions imposed by Council.

#### **10. New Business:**

##### **10A) Recommendation that Council Waive the Competitive Bid Process, as Provided in Section 31.11 (E) (6) (g) of the City Code and Approve an Expenditure of, not to Exceed \$13,878.95 for Fiscal Year 2007 to USA Software, Inc., for Software Maintenance**

City Manager Borgmann read the title of the recommendation to approve an expenditure of, not to exceed \$13,878.95 to USA Software, Inc. He explained that the relative Code Section should be 31.11 (E) (6) (c) because it is a sole source proprietary situation for software maintenance used in the Police Department.

**Councilman Garcia moved the item and Vice Mayor Best seconded the motion, which carried 4-0 on roll call vote.**

##### **10B) Recommendation that Council Approve an Expenditure of \$18,748.80 to Communications International, Inc., the Sole Source Supplier, as Provided in Section 31.11 (E) (6) (c) of the City Code, for the Renewal of the Annual Radio Maintenance Contract for the Police Department**

City Manager Borgmann stated that this item is a recommendation that Council approve an expenditure of \$18,748.80 to Communications International, Inc., as provided in Section 31.11 (E) (6) (c) to Communications International, Inc., the sole source supplier for the renewal of the annual radio maintenance contract for the Police Department.

**Councilman Garcia moved the item and Vice Mayor Best seconded the motion.**

To answer Councilman Dotson's question, City Manager Borgmann stated that funds are available in the Police Department General Fund budget.

**On roll call vote, the motion was unanimously carried.**

Councilman Garcia inquired about the frequency of the radio maintenance.

Police Captain Baan stated that most equipment has annual preventative maintenance and the older equipment is serviced more often for breakdowns. The radios are digital, it is good equipment, but they are approximately twelve years old.

Councilman Garcia inquired if new equipment could be purchased from the Law Enforcement Trust Fund.

Captain Baan responded that equipment with additional capabilities could possibly be funded from the Law Enforcement Trust fund. He assured Councilman Garcia that the radios are well maintained and there are back up systems in place.

#### **10C) Recommendation for Change Order # 1 to Park Restrooms Construction**

City Manager Borgmann stated that this agenda item is a recommendation for Council to approve change order # 1 to the park restrooms construction.

City Manager Borgmann said that prior to the beginning of the project the contractor determined that the construction areas were possibly low. Based on the soil borings, the ability to simply add fill is not adequate and it is necessary to construct a different type of pad on which the restrooms can be built.

The quote for Dove Avenue Park is \$18,800 and Stafford Park is \$21,500 because it is further depressed, according to Mr. Borgmann. The overhead and profit is listed at \$8,000 for a total change order of \$48,300. He recommended approval for the addition to the scope of the project with funding from the General Fund contingency.

Mayor Bain asked if the contractor would be able to go forward with the project once the change order is approved.

City Manager Borgmann responded that the contractor would be able to proceed. He informed Council that a letter was received from the Department of Environmental Regulation Management (DERM) stating that the 90-day letter of approval is expiring within five days and tomorrow is day number five. He will notify DERM that a change order was required before construction could begin.



Councilman Dotson asked what could be done to approve the ability to estimate construction costs. He mentioned that the City Hall security system also involved change orders and although he knows these situations happen, it seems there is a lot of criticism for failure to ascertain more accurate costs for projects.

City Manager Borgmann commented that a full-time Building Official would be able to provide the expertise to review projects and when this process began, part-time Building Official Skip Reed was not available. He stated that staff is certainly an issue and the services of a consultant are needed without a having a qualified person on staff.

City Manager Borgmann explained the when obtaining estimates for the Country Club renovation, the actual construction cost was twice as much as the original estimate, which came from a contractor that could not bid because he realized his estimate was too low.

Councilman Dotson asked why it was not determined that a proper pad was needed before obtaining final estimates.

City Manager Borgmann reiterated that it was based upon the soil borings and it seemed that it was a simple matter of filling the area, but the work is more involved because of the footings.

Councilman Garcia mentioned that it is expensive to hire a full-time Building Official but Council should consider the benefit of having someone qualified on staff that could assist and possibly reduce the number of change orders.

City Manager Borgmann commented that one of the leading companies that designs and builds recreation facilities estimated a new gym would be \$8 million and they have a contract with no change orders, which means the price is already built in.

City Manager Borgmann explained that sometimes there are field conditions involved and it was a cost saving measure by trying to apply the fill in-house, which is not adequate based on the borings.

Vice Mayor Best commented that Stafford Park consistently floods and the cost for the fill is not surprising.

Councilman Dotson reiterated that there should be a way to minimize or prevent the need for change orders due to insufficient estimates.

**Vice Mayor Best moved to approve and Councilman Garcia seconded the motion, which carried 4-0 on roll call vote.**

## **10D) Report on Liability Issues at Various Recreation Venues**

City Manager Borgmann reported that a letter was received from the Florida League of Cities regarding safety issues and the potential of closing the playground areas at the end of the month if the issues are not immediately addressed. He added that the Public Works Department had taken steps to resolve some of the issues and the Recreation Staff is obtaining price quotes for replacement mulch.

Assistant City Manager Gorland stated that Wayne Anderson from the Florida League of Cities had been very helpful in the past. The League was unaware of one facility that had been insured for many years and they did not realize the extent of one area that now requires a fence. The facilities are aging and there are new safety requirements that could prove to be fairly costly.

Assistant City Manager Gorland advised Council that a meeting is scheduled with Mr. Anderson for Tuesday, September 4, 2007 in order to determine what is required, the reason and the timeline to operate under. He explained that the initial estimates for rubber mulch were accurate, except that the depth of the mulch had changed dramatically, which increased the cost to the \$100,000 range. He said that prices would be obtained for wood mulch and the depth is determined by the height of the equipment.

Assistant City Manager Gorland stated that estimates were obtained without knowing the new criteria, which caused some delay. He said that the City was unaware of the changes and why the League wrote the report with only two weeks notice to correct the problems in order to keep the facility open.

City Manager Gorland explained that Mr. Anderson had provided informational material and a team will perform monthly safety inspections in house. He said that hazards must be recognized and corrected. He added that the wood bollards around Peavy Field must be removed and another alternative must be found to keep vehicles off the field.

Councilman Dotson commented that there was an incident at Peavy Field involving a leg injury because of a cable that was protecting the field from the cars.

Councilman Garcia stated that Peavy Field is owned by the County and there is a big dip at the entrance to the parking lot. He asked if the County could correct the problem since the field is used by the public school.

City Manager Borgmann clarified that the County built the field and there is a letter on file that outlines the City and the County's responsibilities. He explained that the problem could be solved by installing crushed rock.

## **11. Other Business:**

None.

## **12. Reports & Recommendations:**

### **12A) City Attorney**

None.

### **12B) City Manager**

#### **Labor Day Holiday**

City Manager Borgmann announced that City Hall would be closed on Monday, September 3, 2007 for the Labor Day Holiday.

#### **Finance Director Resumes**

City Manager Borgmann reported that resumes are coming in for the position of Finance Director. Some of the resumes look good, but the Administration will perform superior due diligence when considering someone for the position. The application process remains open.

### **12C) City Council**

#### **Labor Day Holiday**

Councilman Garcia wished everyone a happy Labor Day.

#### **Garage Apartment**

Councilman Dotson said that he was approached by someone with reference to a garage being converted into an apartment in the rear of a home. He said that his understanding was that if the person making the complaint filed an affidavit that something could be done about the problem.

City Attorney Seiden stated that if there is a suspected violation there is a process by which the person has the option of providing an affidavit and a diagram allowing the City to inspect the property. The complaint should be addressed by Code Compliance to allow them to follow the standard procedure, contact the person who is alleged to be violating the Code, and give them the opportunity to follow one of two processes.

The City Attorney continued explaining that if they choose not to respond, the case will be evaluated by Staff to determine if there is enough evidence to move forward with prosecution. The burden of proof lies with the City.

To answer Councilman Dotson's question, Assistant City Manager Gorland stated that as soon as the violator is confronted with overwhelming evidence they usually agree to cease the activity and provide an affidavit to that effect in order to avoid prosecution.

### **Fair Havens Noise Barrier**

Councilman Dotson inquired if the air conditioning noise barrier is finished with a complete engineered blanket surrounding the unit.

Assistant City Manager Gorland responded that an engineered blanket comes with the unit and an additional blanket was installed around the exposed parts that the original blanket did not cover. He said that he asked Trane for a quote on a blanket for City Hall because it is the same air conditioning chiller and the information is coming. In speaking with the Director at Fair Havens he said that they have done everything possible in order to comply.

### **Misspelled Street Names**

Councilman Dotson reported that discussion ensued at the Historic Preservation Board meeting about misspelled street names and it was mentioned that Whitethorn should be spelled Whitehorn. He asked Councilman Garcia how he felt since he lives on that street.

Councilman Garcia responded that every County record refers to the street as Whitethorn and if the name is incorrect the matter should be addressed with the County.

City Manager Borgmann explained that the last time the question came up he researched the original plat in the Building Department and it reads Whitethorn.

City Attorney Seiden stated that the original plat for Country Club Estates would be the source of information.

### **Helen Dozier**

Vice Mayor Best reported that resident Helen Dozier, a good friend, passed away and the funeral arrangements are at Vista Memorial at 1:30 p.m. on Wednesday, August 29, 2007.

**13. Adjourn.**

There being no further business to be discussed the meeting was adjourned at 10:55 p.m.

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Billy Bain  
Mayor

**ATTEST:**

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Magalí Valls, CMC  
City Clerk

Approved as written during meeting of: 9/24/2007

Transcription assistance provided by S. Hitaffer

Words ~~stricken through~~ have been deleted. Underscored words represent changes. All other words remain unchanged.